

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

SAFEWAY, INC.,
as Subrogee of **DEEPAK POUDYAL,**

2014-00302

Plaintiff,

v.

Civil Action No. _____

NFI INTERACTIVE LOGISTICS, LLC,

Serve: Corporation Service Company
Bank of America Center
16th Floor
1111 East Main Street
Richmond, Virginia 23219

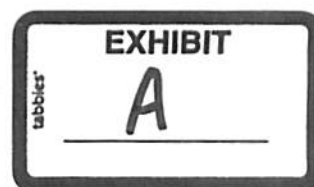
Defendant.

FILED
CIVIL INTAKE
2014 JAN - 8 PM 12:58
JOHN I. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

COMPLAINT

COMES NOW Plaintiff Safeway, Inc., as Subrogee of Deepak Poudyal, for its Complaint against Defendant NFI Interactive Logistics, LLC, and states as follows:

1. Plaintiff Safeway, Inc. ("Safeway") is a Delaware corporation licensed to do business in the Commonwealth of Virginia.
2. Deepak Poudyal ("Poudyal") is a citizen of the Commonwealth of Virginia and at all relevant times was an employee of Safeway.
3. Defendant NFI Interactive Logistics ("NFI") is a New Jersey Limited Liability Company licensed to conduct business in the Commonwealth of Virginia.
4. Plaintiff Safeway, Inc., including Safeway Store 1689, located at 413 Elden Street, Herndon, Virginia 20170, contracted with Defendant NFI to load and pack Cold Product Storage ("CPS") pallets at a warehouse facility operated by Defendant NFI



located at 3680 Langley Road, Hebron, Kentucky 41048.

5. On or about August 16, 2012, Poudyal, while in the course and scope of his employment, was unpacking a CPS pallet packed by Defendant NFI, when a box located at the top of the pallet and out of view to Poudyal fell onto his face and nose.

6. Solely as a result of Defendant NFI's failure to properly load, pack, and inspect the CPS pallet, Poudyal sustained serious and severe injuries to his person, including, but not limited to contusions and lacerations to his face and a fractured nasal bone.

7. Poudyal made a claim for and was awarded medical and lost wage benefits pursuant to the Virginia Worker's Compensation Act.

8. Solely as a result of the injuries suffered by Poudyal, Safeway has incurred damages, including the payment of Poudyal's medical expenses and lost wages arising out of his worker's compensation claim.

9. The injuries sustained by Poudyal on or about August 16, 2012, occurred as a result of, and was proximately caused by the careless, negligent, and reckless conduct of Defendant NFI and/or its agents, employees or assigns in packing, loading and inspecting the CPS pallet.

10. As a result of the aforementioned negligent conduct and breach of care by Defendant NFI and/or its agents, employees or assigns, without any negligence of Safeway, or Poudyal contributing thereto, Poudyal was caused to suffer serious and permanent injuries; has suffered and will suffer in the future pain of body and mind and inconvenience; has incurred and will incur in the future medical and

related expenses; and has been deprived of earnings, past and future, and earnings capacity.

11. To date, Safeway has paid worker's compensation benefits to Poudyal. Pursuant to Virginia Code § 65.2-309(A), Plaintiff Safeway is entitled to recover any and all amounts paid from Defendant NFI.

12. Poudyal is entitled to recover for the serious and permanent injuries he sustained; present and future pain of body and mind and inconvenience; present and future medical and related expenses; and present and future loss of earnings and earning capacity.

13. Safeway gave timely notice to Defendant NFI of its worker's compensation lien.

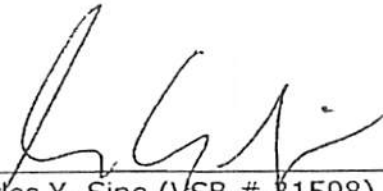
14. Safeway demands indemnification from Defendant NFI in the full amount.

WHEREFORE, Safeway, Inc., as Subrogee of Deepak Poudyal, by counsel, demands judgment in its favor and against Defendant NFI Interactive Logistics, LLC, in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), plus pre-judgment and post-judgment interest and costs; and all other and further relief that this Court deems just.

RESPECTFULLY SUBMITTED,

SAFEWAY, INC., as SUBROGEE
of DEEPAK POUDYAL

By Counsel



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CIRCUIT COURT OF FAIRFAX COUNTY
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FAIRFAX, VIRGINIA 22030
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CL-2014-0000302

TO: NFI Interactive Logistics LLC
Serve: Corporation Service Co.
Bank of America Center 16th Floor
1111 East Main Street
Richmond VA 23219

SUMMONS – CIVIL ACTION

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the Clerk's office of this Court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment or decree against such party either by default or after hearing evidence.

APPEARANCE IN PERSON IS NOT REQUIRED BY THIS SUMMONS.

Done in the name of the Commonwealth of Virginia, on Thursday, January 09, 2014.

JOHN T. FREY, CLERK

By: Daisy M. Eastrez
Deputy Clerk

Plaintiff's Attorney Charles Y. Sipe